

Internal Revenue Service

District
Director

Department of the Treasury

1100 Commerce St., Dallas, Texas 75242

Date: JUN 23 1990

Employer ID Number:

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

The information submitted indicates that you were incorporated on [REDACTED]. Your Articles of Incorporation indicate that you are organized:

"...to promote and engage in activities for the health, safety and welfare of the residents and property owners of [REDACTED] according to the map thereof recorded in Plat Record 18 and Map Number 9 of the Map Records in the [REDACTED]; to own the common areas (Reserves B, C and D as shown on the records subdivision plat of the [REDACTED]); to construct, own, operate and maintain recreational facilities, grounds and other related facilities in Reserves B, C, and D as shown on the records subdivision plat of the [REDACTED]; to provide for the improvement and maintenance of any and all common areas or facilities, if any, for the benefit of the residents; to collect and administer a maintenance fund to carry out these purposes; and to enforce the covenants and restrictions affecting the use of land or property in [REDACTED]."

The Articles of Incorporation; Bylaws; Declaration of Covenants, Conditions, and Restrictions (dated [REDACTED]); and Amended Declaration of Covenants, Conditions, and Restrictions (dated [REDACTED]) state that membership includes every person or entity who is a record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of [REDACTED].

Your application indicates that you were organized to take title and perform maintenance for three parcels of land representing common area in the subdivision. You will also assess lot owners for amounts sufficient to maintain the common areas and enforce the deed restrictions.

According to the Declaration of Covenants, Conditions, and Restrictions, the subdivision consists of [REDACTED] lots and [REDACTED] common areas. The Amended Declaration of Covenants, Conditions and Restrictions replatted a portion of Lot 3 and all of Lots 4 through 14 renaming them Tracts I, II, III, IV, and V.

You indicate that there are [redacted] townhouses on Lots [redacted] and a portion of Lot [redacted]. The remaining lots are vacant. The townhouses are owned by [redacted] individuals, the remaining lots and tracts are owned by [redacted] a general partnership.

[redacted] has contributed funds in the amount of [redacted] to pay delinquent taxes due on the common areas. There are no plans for assessment of the members in the future to cover these expenses.

There are no churches, schools, post offices, or business establishments within the area served by you.

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that:

"An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements."

Revenue Ruling 72-102, 1972-1 C.B. 149, describes an organization formed by a developer to preserve the appearance of a housing development and to maintain streets, sidewalks, and common areas for the use of the residents, which was found to be exempt under section 501(c)(4) of the Internal Revenue Code (the Code). The rationale behind this decision was that the organizations served the common good and general welfare of the entire community because it owned and maintained certain non-residential, non-commercial properties of the type normally owned and maintained by municipal governments. Administering and enforcing covenants for preserving the architecture and appearance of a housing development was incidental to the overriding public benefit.

Revenue Ruling 74-99, 1974-1 C.B. 131, clarifies Revenue Ruling 72-102. This ruling describes an organization that is formed by a commercial real estate developer as an integral part of a plan for the development of a subdivision. Membership in the association is required of all purchasers of lots in the development. Membership is open only to the developer and those who purchase lots. The organization is supported by periodic assessments of the members, and unpaid assessments will result in a lien on the property of the homeowner-member. The stated purposes of the organization are to administer and enforce covenants for preserving the architecture and appearance of the given real estate development, and to own and maintain common green areas, streets, and sidewalks. The foregoing format is spelled out in written documents which form a part of, and are inextricably tied to, enforceable contracts for the sale and purchase of private property. In light of these factors, the prima facie presumption was that organizations such as these were essentially and primarily formed and operated for the individual business and personal benefit of their members, and as such, did not qualify for exemption under section 501(c)(4) of the Code.

The ruling also stated that a "community" within the meaning of section 501(c)(4) of the Code and the regulations is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein. The ruling indicated that although an exact delineation of the boundaries of a "community" is not possible, the term as used in section 501(c)(4) has traditionally been construed as having reference to a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof.

In Association v. U.S., 84-2 USTC 9536, exempt status was reinstated to a homeowners' association formed to enforce protective covenants in a housing development. The Court determined that the housing development constituted an independent community and performed the functions of a governmental entity by providing recreational facilities and bringing about civic and social improvements for the community.

was a large, self-contained housing development located just north of . The property contained in the development consisted of 6,100 acres. The homeowners' association consisted of 3,000 members. The association oversaw the governing of the property within the development by enforcing covenants and setting up various boards, including a planning board, park board, health board, library board, and recreation board. The association also furnished private security protection by way of the Patrol.

The Court determined that as a development constituted an independent community within the meaning of the statute. It was a housing development, significant in size and self-contained in orientation. It was not the ordinary residential grouping of tract homes, but was an independent community separated geographically from the central area of the city of of which was a sub-part. It had its own post office, zip code, and public school district.

Based on the information presented, you do not meet the requirements for exemption as a social welfare organization described in section 501(c)(4) of the Code. Unlike the organization described in Revenue Ruling 72-102, furthering the interests of the owners and developers of the property subject to the Declaration and Amended Declaration is your primary purpose. Also, unlike Association, you do not constitute a community because you are an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes in that subdivision. The fact that you have no schools, post offices, churches or business establishments within your area and bear no resemblance to an area ordinarily identified as a governmental subdivision or a unit or district thereof support this conclusion.

As in Revenue Ruling 74-99, the developer has control of your association. The developer has all the votes for the unsold lots and thereby has control of the activities of the organization. You do not possess the characteristics outlined in the ruling as necessary to overcome the private benefit issues.

the meaning of section 501(c)(4) is to imply an aggregation of individuals as an integral part of a corporation and the sale and lease of it although an exact definition of the term as intended is having reference to a relationship to an association or a unit or district

36, exempt status was force protective covenants the housing development the functions of a ties and bringing about

development located just development consisted of 3,000 members. The thin the development by including a planning board, ion board. The on by way of the

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1 of your association. and thereby has control of the characteristics private benefit issues.

Accordingly, it income tax as you are required

As a homeowners of the Code. If qualify for treatment for such treatment

If you do not a date of this letter that clearly set the issue, please gives instructions

If you do not for this report or

If you agree with please sign and soon as possible

If you have any telephone number

Enclosures:
Publication 8
Form 6018

Case No.

Employee

Name of

c/o

I consent

as shown

Declaration

under

proposed

181 DE

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consent

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Name

Signature

Signature

Case Number

Employer Identification Number

Date of Latest Determination Letter

Name and Address of Organization

Date of Proposed Adverse Action

c/o

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

Nature of Adverse Action

☒ Denial of exemption

☐ Revocation of exemption, effective

☐ Modification of exempt status from section 501(c)() to 501(c)(), effective

☐ Classification as a private foundation (section 509(a)), effective

☐ Classification as a non-operating foundation (section 4942(j)(3)) effective

☐ Classification as an organization described in section 509(a)(), effective

☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.
If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to declaratory judgment under section 7428

(Signature instructions are attached)

Name of Organization

Signature and Title

Signature and Title

Date

Date